AN ACCOUNT OF THE PROCEEDINGS AT *WEST MINSTER-HALL*;

On the 29th, and 30th of *June*, 1688. Relating to the *Tryal* and *Diſcharge* of the Archbiſhop of *Canterbury*, the Biſhop of S. *Aſaph*, Biſhop of *Chicheſter*, Biſhop of *Ely*, Biſhop of *Bath* and *Wells*, Biſhop of *Peterborough*, and the Biſhop of *Briſtol*.

Edinburgh, Re-printed in the Year. 1689.

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James Thin May 7, 1920 2/2

AN

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THE Indictment when read, was very much excepted against, on the account of its Form, in that it did not mention all the Petition they were Indicted for: there was not either the Title of it expressing to whom it was directed (viz. To the Kings Most Excellent Majesty, was omitted,) and the prayer afterwards (We therefore pray, &c. was not there; which being closely pursued by the Bishops Council, seemed to invalidate the whole business. Then it was not and could not be proved by the Kings Council, that the Bishops presented the petition to the King. They had in the Court the Original, and subpoena'd some of the Arch-Bishops and Bishops Chaplains, Servants, and others, to prove their hands, which was not done very clearly upon most of them; all the proof of the Kings Council had for the presenting the Petition to His Majesty, did not directly prove it upon them: The most it amounted to, was either that the King told them, he had it from the Lord Bishops; or, that my Lord Chancellor did ask them, if it were theirs? when they were summon'd before the King and Council,) and that they then express'd an averseness to own it; saying before the King, that if His Majesty did insist on it, and that it should not be improved to their disadvantage, or produc'd in evidence against them, that they would be plain, and leave it to His Majesty. Upon this the Bishops Council had some reflections which my Lord Chief Justice told them he must not hear. But this did not amount to a full proof of the point. Then the Bishops Council did greatly insist upon the Indictment being laid in a wrong County; for it was proved upon Oath, that the Arch-Bishop was not out of his House for a very

ſiderable time before he was ſummon'd to the King in Council. Now what was alledg'd againſt them, was done at *Lambeth*, and therefore in *Surrey* the Indictment ought to have been laid, which ſeem'd much to affect them. After this, the Biſhops Council objected againſt the term Publiſhing; whereas what was ſaid to be done by them, was in the privateſt way that could be, and given only to the King, which caus'd a long debate between both parties, of things requiſite to denominate a Publication; all did ſtill appear favourable on the Biſhops ſide: and here things were going to a concluſion, and the Judge was entered upon ſumming up the Evidence; but Mr. *Finch*, (one of the Biſhops Council) interrupted my *Lord* Chief Juſtice, ſaying, there was one material Evidence remaining: Whereupon, my *Lord* deſiſted, tho with ſome ſeeming diſatisfaction to the reſt of the Biſhops Council; For the Judge was going on very favourably for the Biſhops cauſe; ſome of the Biſhops importun'd my Lord Chief Juſtice to proceed, but he would not; And ſo it brought on more diſcourſe about the former Subjects, and occaſion'd the ſending for my Lord Preſident: who came into Court after it had ſtayed an hour for him: The Evidence that he gave upon Oath, could not fully prove the delivery of the Petition to the King by the Biſhops: When before, for the proof of this, the Solicitor did very greatly importune ſome Witneſſe for the King, (that had upon Oath delivered, what they knew about this matter, which was as aforeſaid) by putting to them very intricate queſtions, my Lord Chief Juſtice reproved him, ſaying, it was not to be ſuffered; adding, that if he went on thus, he would let the Biſhops council looſe on him.

After theſe things, my L. C. J. ask'd the Biſhops council, what elſe they had to plead; whereupon they proceeded to that part of the Indictment that call'd the Biſhops Petition, *A* ſcandalous Seditious Libel, &c. Which occaſion'd very great, ſolemn and moſt pleaſing debates. For, hereupon they entered into and diſcuſs'd the lawfulneſs of the Declaration and the Diſpenſing Power, which were harang'd by every one of the Biſhops Council in moſt brisk, home and admirable Speeches, for the ſpace of three hours, ſhewing the Declaration to be againſt and contrary to Law, which no power could diſpence or abrogate, but that which made it, (viz. a parliament) and that the Eccleſiaſtical Laws had the ſame foundation as the Civil, and could be therefore no more diſpens'd with, That the Declaration did evacuate the Laws for *Sabbath*-breaking, Fornication, &c. and let looſe the reins to the moſt extravagant Sects and licentious practices; and that all *Laws* might be diſpens'd with, as well as ſome: That the Biſhops were ſworn to maintain the Eccleſiaſtical Laws; and in repreſenting the Caſe thus to His Majeſty, they had

had done both as the Law directed them, and according to prudence, Honour and Conscience. There were hereupon publickly read several Acts of Parliament, Records of the Tower, and Parliament Records; among which one Act of Parliament was observable; that gave the King power to dispense with a Law for a stated time: So that what Dispensing power he ever had, was both given and bounded by parliament. From what they produc'd out of the parliament Records and otherways they greatly confirm'd what was said in the petition of the Dispensing power, having been often declared illegal in Parliament, and particularly in the years 62 and 72. and in the beginning of his Majesties Reign, which was in 85, when the parliament declar'd the Popish Officers could not be dispens'd with, but that it was contrary to Law to do so, tho they were willing by Act of Parliament to indemnifie such as His Majesty should nominate, &c. And they shew'd how the like Dispensing Power upon the same occasion was accounted illegal in 62. and 72. both by Parliament and the King himself, who offered the Seal to be tore off, and gave the testimony of his disowning such a Dispensing Power. To which the Solicitors chief Answer was, that the King then lacked Money, and that such Acts as aforesaid (whatever they might say) did confirm, not give the King's Dispensing Power. In short, the Bishops Council behav'd themselves in this weighty matter with a great deal of gallantry and plainness, no wise inferior to most mens expectations and desires. The chief of the managers for the King, was the Solicitor W. Williams, who as was apprehended, did no great wonders for invalidating the foregoing Arguments. He was very hot and earnest (if not passionate) in proving it a Libel, saying, It would be so, tho it were done by them to redress a certain grievance: whereupon my L. C. J. asking what course then they should take, or what they should do in such circumstances; he answered, Acquiesce, (which occasioned a very great Hiss over the Court) He added farther to prove it Libellous; the insinuating Expressions of gaining the populace, by saying, "It was not for want "of due tenderness to dissenters, in relation to whom, we are Willing to "come to such a temper, as shall be thought fit, when that matter shall "be considered and settled in Parliament and Convocation, said he, what's the meaning of that? But here my L. C. J. gave him a check, and restrain'd what he seem'd greatly disposed to vent against it. There was not very much said by the rest of the Kings council, at least, nothing more considerable than this. The King's Attorny General was pretty moderate; Sir Barth Shores spoke a little, but was presently silenc'd, (in the vacancy of stay for my Lord president, my L. C. J. said to Sir Barth Shore, Now Sir Bartholomew,

we

we have time to hear your Speeches) Serjeant Baldock's Argument against the Bishops, was chiefly upon their refusing, the King requiring such a slender matter so easily to be done; for they were not enjoyned to read, but only to send about and disperse it; Yet this they would not do. It concluded with the Kings Council.

Then my Lord Chief Justice summing up the business, was favourable to the Bishops in the former part of the Tryal, and could not say the matter of Fact was fully proved upon them, but was inclin'd to make the Petition a *Libel*; because of its accusing the King of Flaws in Government. He said but little to oppose what had been brought by the Bishops Council against the Declaration and Dispensing Power. After him spoke Judge Holloway, and very much in the Bishops behalf, giving it as his judgment, that it could not be a Libel, being done from a conviction of Conscience by such persons in such an humble modest manner. Then Judge Powel spake to the same effect, giving it as his opinion, that it could not be a Libel, being the only way to redress themselves: He had also some other expressions to confirm what the Bishops Council had urged against the Declaration and Dispensing Power, so that Judge Powel gave his opinion also in favours of the Bishops. Then Judge Allibon standing up, professed he would not meddle with the Dispensing Power (tho it had been so much Canvass'd and pleaded against) but would only speak to the business of the Paper being a Libel; and he did accordingly, urging it to be so, not barely because it was a Petition: For, said he, any one under grievance may Petition his Majesty, but not about affairs of Government, for that would tend to very bad consequences, and promote Discontents, or worse in the Nation. Nor (as he added) can the pretended fairness, as to the manner of it, be an excuse; For the more it hath that way, so much the worse; and so concluded it in his sense a Libel. But urging a Precedent to confirm what he had said, he was partly mistaken in it, as Judge Powel and the Bishops Council shew'd him, and he himself acknowledged.

Then the Court broke up, the Jury went together, and the Bishops with all the privacy they could, to their respective abodes; but wherever the people met with them, they huzza'd and humm'd them in great abundance. There was a prodigious full Court and Hall, a very great many of the Peers and Nobility present, and also the Bishop of Chester, of whom they

they took no kind of notice: The Bishop of Rochester did not meet with much better regard.

The Jury sat up all night, tho they were very soon unanimous in their Verdict, which they prudently resolved to give in open Court and accordingly, next day about Nine or Ten they brought them in

Not Guilty.

The Names of the Lord Biſhops Counſellors.

Sir Francis Pemberton.
Sir Creſwell Levins.
Sir Robert Sawyer.
Mr. Finch.
Mr. Pollixfen.
Mr. Treby.
Mr. Summers.

The Names of the JURY Sworn.

Sir Roger Langly of Weſtminſter.
Sir William Hill of Tedington.
Robert Jennings of Hayes, Eſquire.
Thomas Harriot of Iſlington, Eſquire.
Jeoffry Nightingale of S. Giles Cripplegate, Eſquire.
William Withers of the ſame, Eſquire.
William Avery of Enfield, Eſquire.
Thomas Auſtin of South-Myms, Eſquire.
Nicholas Grice of Neſton, Eſquire.
Michael Arnold of Weſtminſter, Eſquire.
Thomas Dove of S. Giles in the Field, Eſquire.
Richard Shelton of Tekenham, Eſquire.